S.B.Civil Sales Tax Revision No.1020/99
Alcobex Metals Pvt. Ltd.
vs.
The Commercial Taxes Officer

Date of Order: 04.7.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. Rajendra Mehta for the petitioner.
Mr.Sangeet Lodha for the respondent.

The present revision petition is against the order of the Tax Board dated 10.2.1993 whereby the Tax Board observed that the assessing authority as well as the appellate authority did not consider the relevant law as well as evidence and the conclusion that the branch transfer of the assessee were interstate sales, the assessing authority based his conclusion on mere generalisation and stray observations from the general correspondences etc. The Tax Board was of the view that Hon'ble the Apex Court in the case of Tata Engineering Motive Co. Ltd. vs. Assistant Commissioner of C.T. ((1970) 26 STC 354 laid down that the assessing authority must look into each transaction to find out whether the complete contract of sale had taken place which could be brought to tax and same observations were made in Kelvinator of India Ltd. vs. State of Hariyana ((1973) 32 STC 283. The Tax Board also observed that the Tax Board would have examined the record but since the record was too bulky, therefore, it will be just and proper that the assessing authority should examine the matter afresh.

According to the learned counsel for the petitioner, on this ground the matter could not have been remanded and the Tax Board itself should have decided the matter on merit because the entire record was with the Tax Board. Therefore, the order of the Tax Board is illegal and liable to be set aside.

I considered the submissions of the learned counsel for the petitioner.

It appears that the Tax Board has not declined to decide the matter itself on the ground of bulky record or because of being difficult task but the Tax Board was of the opinion that opportunity be given to both the parties in leading additional evidence. In view of the above, the order of remand passed by the Tax Board suffers from no error of law in the facts of the case.

In view of the above, the revision petition is dismissed.

(**PRAKASH TATIA),J.**

mlt.